

UNITED STATES OF AMERICA  
POSTAL REGULATORY COMMISSION  
WASHINGTON, DC 20268-0001

Before Commissioners:

Robert G. Taub, Acting Chairman;  
Mark Acton, Vice Chairman;  
Ruth Y. Goldway;  
Tony Hammond; and  
Nanci E. Langley

Competitive Product Prices  
Parcel Select Contract 4 (MC2012-33)  
Negotiated Service Agreement

Docket No. CP2012-41

ORDER APPROVING AMENDMENT TO  
PARCEL SELECT CONTRACT 4 NEGOTIATED SERVICE AGREEMENT

(Issued December 23, 2014)

I. INTRODUCTION

The Postal Service seeks to amend a Parcel Select negotiated service agreement.<sup>1</sup> For the reasons discussed below, the Commission approves the Amendment.

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<sup>1</sup> Notice of United States Postal Service of Amendment to Parcel Select Contract 4, with Portions Filed Under Seal, December 9, 2014 (Notice). The Amendment is an attachment to the Notice (Amendment).

In Order No.1415, the Commission approved the Parcel Select Contract 4 negotiated service agreement (Existing Agreement).<sup>2</sup> On December 9, 2014, the Postal Service filed notice that it has agreed to the Amendment to the Existing Agreement.<sup>3</sup> On December 11, 2014, the Commission issued an order reopening this docket to consider the Amendment, appointing a Public Representative, and providing interested persons with an opportunity to comment.<sup>4</sup>

The Postal Service intends for the Amendment to become effective one business day after the date that the Commission completes its review of the Notice. Notice at 1. The Postal Service states that the Amendment will not materially affect the cost coverage of the Existing Agreement, and that the supporting financial documentation and financial certification provided in its Request remain applicable. *Id.* This material is required by 39 C.F.R. § 3015.5. *Id.*

## II. COMMENTS

Comments were filed by the Public Representative.<sup>5</sup> No other person submitted comments. The Public Representative reviewed the Amendment, the Existing Agreement, and the financial model filed under seal. *Id.* at 2. Based on that review, he

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<sup>2</sup> See Docket Nos. MC2012-33 and CP2012-41, Order Adding Parcel Select Contract 4 to Competitive Product List, July 25, 2012 (Order No.1415). The contract was later amended. See Order No.1841, Order Approving Amendment to Parcel Select Contract 4 Negotiated Service Amendment, September 27, 2013.

<sup>3</sup> The Notice incorporates by reference the application for non-public treatment filed as Attachment F to the Request of the United States Postal Service to Add Parcel Select Contract 4 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data, July 12, 2012 (Request). Notice at 1. The application seeks a ten-year period of non-public treatment to protect its interests with respect to commercially sensitive information, and indefinite protection for customer-identifying information. Request, Attachment F at 7. The Commission has consistently denied similar requests for indefinite protection. See, e.g., Docket Nos. MC2011-1 and CP2011-2, Order No. 563, Order Approving Express Mail Contract 9 Negotiated Service Agreement, October 20, 2010, at 6-7.

<sup>4</sup> Order No. 2280, Notice and Order Concerning Amendment to a Parcel Select Contract 4 Negotiated Service Agreement, December 11, 2014.

<sup>5</sup> Public Representative Comments on Postal Service Notice of Amendment to Parcel Select Contract 4 Negotiated Service Agreement, December 17, 2014 (PR Comments).

concludes that the Existing Agreement, as amended, should continue to generate sufficient revenues to cover costs and satisfy 39 U.S.C. § 3633(a) for the duration of its term. *Id.*

### III. COMMISSION ANALYSIS

The Commission has reviewed the Notice, the materials filed under seal, and the comments filed by the Public Representative.

*Cost considerations.* The Commission reviews competitive product prices to ensure that each product covers its attributable costs, does not cause market dominant products to subsidize competitive products, and contributes to the Postal Service's institutional costs. 39 U.S.C. § 3633(a); 39 C.F.R. §§ 3015.5 and 3015.7. As long as the revenue generated by the product exceeds its attributable costs, the product is unlikely to reduce the contribution of competitive products as a whole or to adversely affect the ability of competitive products as a whole to contribute an appropriate share of institutional costs. In other words, if a product covers its attributable costs, it is likely to comply with 39 U.S.C. § 3633(a).

The Existing Agreement is a three-year contract concerning shipping services and prices for certain of the contracting partner's Parcel Select pieces. Request, Attachment B. The Amendment addresses price changes, mail preparation, and mail services for the remainder of the third year of the contract. Notice, Attachment A.

Based on a review of the record, the Commission finds that the Existing Agreement, as amended, should cover its attributable costs. 39 U.S.C. § 3633(a)(2). For this reason, it finds that the Existing Agreement, as amended, should not result in competitive products as a whole being subsidized by market dominant products, in accordance with 39 U.S.C. § 3633(a)(1). Similarly, it finds the amended agreement is unlikely to prevent competitive products as a whole from contributing an appropriate share of institutional costs, consistent with 39 U.S.C. § 3633(a)(3). See *also* 39 C.F.R. § 3015.7(c). Accordingly, a preliminary review of the Amendment indicates it is consistent with section 3633(a). The annual rate adjustment provision in section I.F. of

the amended agreement should allow the amended agreement's revenues to cover costs for the duration of its term. The Commission will continue to review the cost coverage of the amended agreement in its Annual Compliance Determination to ensure that rates cover costs.

*Other considerations.* The Amendment also includes provisions relating to mail preparation and services. The Commission has reviewed these provisions, and finds they do not alter its finding that the amended agreement is consistent with applicable statutory and regulatory provisions.

The Postal Service states that the Amendment shall become effective one business day after the date that the Commission completes its review. The Existing Agreement, as amended, is set to expire three years after the initial effective date unless, among other things, either party terminates the contract with three months' written notice to the other party or it is renewed by mutual agreement.<sup>6</sup>

If the Existing Agreement, as amended, is terminated prior to the scheduled expiration date, the Postal Service shall promptly notify the Commission.

Within 30 days of the termination of the Existing Agreement, as amended, the Postal Service shall file the annual (contract year) costs, volumes, and revenues, disaggregated by rate category and weight associated with the amended agreement.

In conclusion, the Commission approves the Existing Agreement, as amended.

#### IV. ORDERING PARAGRAPHS

*It is ordered:*

1. The Commission approves the Parcel Select Contract 4 negotiated service agreement, as amended.

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<sup>6</sup> *Id.* at 6. Should both parties agree to renew the agreement, any such renewal is required to follow the requirements of 39 U.S.C. § 3633 and the Commission's implementing regulations of 39 C.F.R. part 3015.

2. The Postal Service shall notify the Commission if the Existing Agreement, as amended, terminates prior to the scheduled expiration date.
3. Within 30 days after the Existing Agreement, as amended, terminates, the Postal Service shall file the annual (contract year) costs, volumes, and revenues disaggregated by rate category and weight associated with the contract.

By the Commission.

Shoshana M. Grove  
Secretary